

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

TELLY HARRIS,)	
Plaintiff,)	
)	C.A. No. 23-104 Erie
v.)	
)	District Judge Susan Paradise Baxter
HILLARY BETH HOFFMAN, et al.,)	Chief Magistrate Judge Richard Lanzillo
Defendants.)	

MEMORANDUM ORDER

Plaintiff Telly Harris, an inmate incarcerated at the Erie County Prison in Erie, Pennsylvania (“ECP”), initiated this action on April 7, 2023 against, *inter alia*, Erie County Assistant District Attorney Hillary Beth Hoffman (“Hoffman”) and Erie County Police Officer Russell (“Russell”).¹ This matter was referred to Chief United States Magistrate Judge Richard A. Lanzillo for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

In his complaint [ECF No. 22], Plaintiff asserts claims under 42 U.S.C. § 1983 based on alleged violations of his rights under the fourth, sixth, and fourteenth amendments to the United States Constitution. In particular, Plaintiff alleges that Defendant Russell suppressed exculpatory evidence and filed charges of sexual assault against him without probable cause, and Defendant Hoffman maliciously prosecuted him while withholding exculpatory forensic evidence at his preliminary hearing.

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Several other Defendants named in the complaint were terminated prior to service under the screening provisions of 28 U.S.C. § 1915.

On June 28, 2024, Defendant Hoffman filed a motion to dismiss [ECF No. 32], to which Plaintiff was ordered to file a response by July 30, 2024 [ECF No. 35]. Defendant Russell subsequently filed his own motion to dismiss on August 16, 2024 [ECF No. 38], to which Plaintiff was ordered to file a response by September 30, 2024 [ECF No. 40]. Both response Orders were returned to the Court marked “unable to forward.” As a result, Judge Lanzillo issued a show cause Order on October 8, 2024, requiring Plaintiff to show cause regarding his failure to respond to the motions or, alternatively, to file a brief in opposition to both motions by October 29, 2024 [ECF No. 41]; however, the Order was returned to the Court on November 8, 2024, with the notation that Plaintiff was released from incarceration. Since then, Plaintiff has failed to notify the Court of his change of address.

As a result of Plaintiff’s failure to file a response to either of Defendants’ motions to dismiss and his continued failure to notify the Court of his new address, Chief Magistrate Judge Lanzillo issued a Report and Recommendation (“R&R”) on November 18, 2024, recommending dismissal of this case for Plaintiff’s failure to prosecute [ECF No. 42]. Plaintiff has since failed to file timely objections the R&R.

Thus, after de novo review of the documents in this case, together with the report and recommendation, the following order is entered:

AND NOW, this 16th day of December, 2024;

IT IS HEREBY ORDERED that this case is DISMISSED for Plaintiff’s failure to prosecute, and Defendants’ motions to dismiss [ECF Nos. 32, 38] are DISMISSED as moot. The report and recommendation of Chief Magistrate Judge Lanzillo, issued November 18, 2024 [ECF No. 42] is adopted as the opinion of the court.

The Clerk is directed to mark this case CLOSED.


SUSAN PARADISE BAXTER
United States District Judge

cc: The Honorable Richard A. Lanzillo
Chief United States Magistrate Judge

All parties of record